

FILED
JAN 10 2011

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PORTLAND DIVISION

MARK POTTER

Plaintiff,

Civil No. 09-814-PK

v.

O R D E R

THOMAS CROSSWHITE

Defendant.

Martin W. Jaqua
The Rickles Law Firm, PC
One SW Columbia Street, Suite 1850
Portland, Oregon 97258-2001
Attorney for Plaintiff

Mark E. Griffin
Griffin & McCandlish
215 SW Washington St., Suite 202

Portland, Oregon 97204
Attorney for Defendant

KING, Judge:

The Honorable Paul Papak, United States Magistrate Judge, filed Findings and Recommendation on December 2, 2010. Both Potter and Crosswhite filed timely objections to the Findings and Recommendation.

When either party objects to any portion of a magistrate's Findings and Recommendation, the district court must make a de novo determination of that portion of the magistrate's report. 28 U.S.C. § 636(b)(1). This court has, therefore, given de novo review of the rulings of Magistrate Judge Papak.

This court ADOPTS the Findings and Recommendation of Magistrate Judge Papak (#58) dated December 2, 2010 in its entirety. The court accepts Potter's clarifications to the record: (1) the plaintiff is Mark Potter, acting as trustee of sixteen irrevocable life insurance trusts, not the trusts themselves; and (2) the \$550,000 transferred by defendant in January of 2007 was ultimately received and held in trust by Potter until its residue was deposited with the court following the filing of a complaint for interpleader in Potter v. Cavaletto, CV 10-124-ST.

IT IS HEREBY ORDERED that Crosswhite's Motion for Attorney Fees and Costs (#35) is denied and that Potter is awarded his attorney fees and costs reasonably incurred in connection with his opposition to Crosswhite's withdrawn Motion for Imposition of Sanctions (#42).

DATED this 10 day of January, 2011.


GARR M. KING
United States District Judge